

REMARKS

Claims 1-9 and 12-14 were rejected. Claims 1-9 and 12-14 have been cancelled without prejudice. New Claims 20-35 have been introduced to better represent the Applicants' invention. No new matter has been introduced. Support for new Claims 20-35 is found in figure 4B and paragraph 66 of Applicant's specification. Support for Claims 24-32 is found in figure 4A and paragraph 65 of the Applicant's specification. Applicants respectfully submit that it places this application in condition for allowance.

Information Disclosure Statement

The Examiner did not consider the Information Disclosure Statement filed on January 18, 2007, because it lacked the required fee. The \$180 fee for submission of the Information Disclosure Statement was paid electronically on the United States Patent and Trademark Office website on March 2, 2007. Consideration of the references submitted on January 18, 2007 is therefore respectfully requested.

Claim Rejections – 35 USC § 103

The prior art of record to Johnson (US 3,866,599) ("Johnson") in view of Polanyi (US 3,674,013) ("Polanyi") and further in view of Russo et al. (US 4,317,452) ("Russo") in combination fail to teach several limitations of the new independent claims 20, 25, 30 and 35.

Johnson and Polanyi fail to teach the Applicant's claimed surgical drain, which is configured to rest against the surface of at least one tissue in the patient's body to drain wound fluid from the vicinity of the tissue, wherein the surgical drain is not configured to penetrate the tissue.

Johnson, Polanyi and Russo fail to teach the first sensing element branches out from the first surface (wherein the first surface is located on the outer side of the surgical drain) of the implanted surgical drain and is configured for insertion in the tissue inside the patient's body, and as to claim 35, to sense energy from within the tissue that is indicative of a physiological property of the tissue.

Therefore, the new claims 20-35 should be in condition for allowance.

Issuance of a Notice of Allowance is respectfully requested. In this regard, Applicants' attorney spoke with Examiner Hill on March 1, 2007, and asked to schedule a telephonic interview so that any remaining issues could quickly be resolved. The Examiner advised that she would consider Applicants' request for an interview at the time she reviews this amendment. Applicants' attorney, Marc E. Brown, can be reached at (310) 788-1569.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 501946 and please credit any excess fees to such deposit account.

Respectfully submitted,

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